



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Tchernev *et al.*

APPLICATION NO: 10/072,012

EXAMINER: Not yet assigned

FILING DATE: January 31, 2002

ART UNIT: 1632

FOR: PROTEINS AND NUCLEIC ACIDS ENCODING SAME

MAIL STOP DAC

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(a)

1. In reply to the Decision Refusing Status Under 37 C.F.R. § 1.47(a), mailed February 19, 2003 in the above-identified application, Applicants respectfully request reconsideration of the Petition. A copy of the Decision is enclosed herewith.
2. The Decision indicates that the prior Petition lacked sufficient proof evidencing that the non-signing inventor, Denise Lepley, refuses to sign the combined declaration and power of attorney after having been presented with the application papers for the instant application.
3. As requested by the Petitions Attorney, Applicants hereby submit the following documentation which sufficiently demonstrates that a complete copy of the application papers were sent to Denise Lepley and that she thereafter refused to execute the combined declaration and power of attorney to make application for patent.
 - 3.1 Declaration of George M. Yahwak (Exhibit A);
 - 3.2 Employee Confidential Information and Invention Agreement, executed by Denise Lepley (Exhibit B);
 - 3.3 Acknowledgement of obligations remaining after separation from employment with CuraGen, executed by Denise Lepley (Exhibit C);

- 3.4 Letter, dated March 17, 2003, from George Yahwak addressed to Denise Lepley at her last known address, indicating enclosure of the complete application as filed for her review, and requesting execution of the combined declaration and power of attorney (Exhibit D); and
- 3.5 Follow-up letter, dated March 21, 2003, from Denise Lepley to George Yahwak indicating her refusal to execute any patent documents for which she is an inventor (Exhibit E).

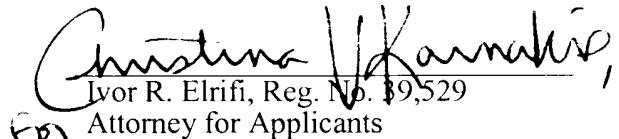
4. Based upon the pertinent facts presented herein, the undersigned hereby respectfully requests that application be made by each of the signing co-inventors on his or her behalf and on the behalf of the nonsigning co-inventor, Denise Lepley. To that end, the undersigned, on behalf of the signing co-inventors named in the prior petition, respectfully requests reconsideration and grant of this renewed petition for filing the patent application by less than all of the co-inventors pursuant to 37 C.F.R. § 1.47(a).

5. A two-month petition for extension of time accompanies this Request for Reconsideration. With the extension this paper is due on or before June 19, 2003. Please note that this application is now entitled to small entity status. As such, Check No. 16526 in the amount of \$205.00 is enclosed to cover the corresponding extension fee under 37 C.F.R. § 1.17(a)(2). No other fee is believed due. However, Applicants hereby authorize the Commissioner to charge any necessary fees that may be due, or to credit any overpayment, to Deposit Account No. 50-0311, Reference No. 21402-258 (Cura-558).

Should the Commissioner have any questions concerning this petition, he is invited to telephone the undersigned at the number provided.

Respectfully submitted,

Dated: June 19, 2003


Ivor R. Elrifi, Reg. No. 39,529
45,899
Attorney for Applicants
c/o MINTZ, LEVIN
One Financial Center
Boston, Massachusetts 02111
Tel: (617) 542-6000
Fax: (617) 542-2241
Customer No.: 30623

TRA 1806665v1